

Art Unit: 3643

III. Remarks

Claims 1-2, 8, 9 10 and 12 were rejected under 35 U.S.C. §102(b) as being anticipated by Marsters. Claims 1-4 and 13-18 were rejected under 35 U.S.C. §102(b) as being anticipated by Thayer. Claims 1, 5, 6 and 7 were rejected under 35 U.S.C. §102(b) as being anticipated by Dubriske. Claim 11 was objected to. Applicants have amended the claims to incorporate the elements of claim 2 into claim 1 and the elements of claim 16 into claim 15, from which they respectfully depended. Claims 2, 16, and 18 have been cancelled. Reconsideration is respectfully requested.

The various claims in this application were rejected as anticipated by several references, Marsters, Thayer, and Dubriske. However, none of these references teaches or suggests the present claimed invention. The present invention relates to a fishing device employing a parachute to provide a drag to the fishing line.¹ Neither Marsters nor Thayer teaches or suggests use of a parachute or even a fishing device for providing a drag to a fishing line. Both of these references disclose bait containers for holding bait during casting. The containers open after the cast to release the bait. The Office Action suggests that the containers can be considered a parachute because they would provide a drag to the line. While anything attached to the line will provide a drag, it cannot be considered a parachute. Merriam-Webster's Collegiate Dictionary, Tenth Edition (excerpt attached) defines a parachute as:

1: A device for slowing the descent of a person or object through the air that consists of a usually hemispherical fabric canopy beneath which the person or object is suspended ... 3: a device or structure suggestive of a parachute in form, use or operation.

Thus, any structure, including those shown in Marsters and Thayer, is not a parachute merely because it can provide a drag. In order to further clarify the meaning of "parachute," applicants have amended claim 1 to recite that the parachute has a periphery and that the periphery is attached to the line. Neither Marsters nor Thayer includes a parachute nor any structure in which a periphery is attached to a line.

¹ Although some of the originally filed claims merely recited a drag and not a parachute, those claims have been cancelled or amended to more accurately reflect the present invention.

Dubriske discloses a complex decoy device which includes a parachute. The parachute is not attached between the fishing line and the hook. Instead, it is attached between the decoy device and the fishing line. The parachute provides a drag behind the decoy device to cause it to move. While applicants assert that Dubriske does not disclose, teach or suggest the fishing device recited in claim 1 as originally filed, they have amended claim 1 to include the elements previously in dependent claim 2, and cancelled claim 2. Claim 2 (now incorporated into claim 1) recited that the parachute provides a drag when the line is pulled in the direction of hook. The parachute disclosed in Dubriske does not provide a drag when the line is pulled in the direction of the hook. Instead, it provides a drag when the device is pulled in the opposite direction, away from the hook.

As discussed above, claim 1 patentably distinguishes over all of the cited art. Claim 1 recites a fishing device comprising a line between a fishing line and a hook and a parachute, having a periphery attached to the line to provide a drag when the line is pulled in the direction of the hook. Marsters, Thayer and Dubriske fail to disclose, teach or suggest such a structure. Marsters and Thayer do not disclose a parachute nor a parachute having a periphery attached to a line. Dubriske does not disclose a parachute which provides a drag when the line is pulled in the direction of the hook. Accordingly, claim 1 patentably distinguishes over the cited art and is in condition for allowance.

Claims 3-14 depend from claim 1 and are allowable for at least the same reasons. Furthermore, these claims include additional elements which are not disclosed or suggested by the cited art. For example, claim 7 recites a tether between a portion of the parachute and the line. Dubriske, the only art cited as anticipating this claim, does not disclose a tether. The top of the parachute is directly connected to the line so that the parachute can be folded inward upon operation of the decoy. Claim 9 recites a container having the parachute and line packed within it. Marsters, the only art cited as anticipating this claim, does not disclose such a structure. The only item within the container in Marsters is the hook and bait. The structure suggested by the Office Action as being a "parachute" is the top of the container. It, therefore, is not packed within the container. Claim 10 recites that the container opens when tension between the hook and the fishing line exceeds a threshold. Marsters does not disclose such a structure. In

Marsters, the weight of the bait within the container forces it open. There is no tension between the hook, which is in the container, and the fishing line to open the container. Claim 12 recites that the container is shaped to function as a lure. Marsters again does not disclose such a structure. The container in Marsters is designed to function as a float. The bait is placed in the container during casting and is released when the cast is complete. The container does not function as a lure. Accordingly, claims 3-14 are in condition for allowance.

Independent claim 15 recites a method for providing resistance to a swimming fish. The method includes the steps of engaging a hook in the fish and deploying a parachute connected to the fishing line when the hook is engaged. None of the cited art discloses, teaches or suggests such a method. As discussed above, neither Marsters nor Thayer discloses a parachute. Furthermore, none of the references discloses deploying any device when a hook is engaged to provide a drag to the fishing line. Marsters and Thayer disclose devices for holding the bait during casting. The devices open after the cast is complete and release the bait. Since the bait is within these devices, they have to open before a hook is engaged. Therefore, even if they could be considered a parachute, they cannot deploy when the hook is engaged. The parachute in Dubriske operates the decoy and lure. Thus, it is deployed and operates before a hook is engaged. Accordingly, claim 15 is in condition for allowance.

Claim 17 depends from claim 15 and is allowable for at least the same reasons. Claim 17 further distinguishes over the cited art. It recites that the drag from the parachute is provided when the line is moved in the direction of the hook, but is released when the line is moved in the direction of the fishing line. To the extent that the devices in Marsters, Thayer and Dubriske provide drags, the drags are the same independent of the direction of motion of the line, towards or away from the hook. On the other hand, the present invention, as recited in claim 17 has a directional drag when the line is moved in the direction of the hook. Therefore, claim 17 patentably distinguishes over the cited art and is in condition for allowance.

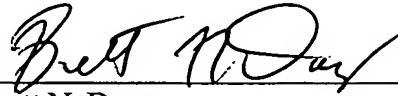
In view of the foregoing amendments and remarks, applicants believe that this application is in condition for allowance. If the examiner has any questions regarding this amendment or the application in general, he is encouraged to telephone the undersigned attorney so that prosecution of this application can be expedited.

Serial No.: 10/798,832

Attorney Docket No. C001-101

Art Unit: 3643

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Brett N. Dorny", is written over a horizontal line.

Brett N. Dorny

Registration No. 35,860

Law Office of Brett N. Dorny

321 Church Street

Northborough, Massachusetts 01532

Telephone (508) 904-3228

Attorney for Applicant

Date: February 7, 2005

Correspondence should be addressed to customer number 43,891.